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October 29, 2003

**MR. C.J. LEDOUX, PRESIDENT,
AND MEMBERS OF THE BOARD OF COMMISSIONERS
OF THE TOWN & COUNTRY DRAINAGE DISTRICT NO. 1**
Monroe, Louisiana

We visited the Town & Country Drainage District No. 1 (district) on April 16, 2003, and September 25, 2003, to review certain financial records of the district for the period from January 1, 2001, through September 24, 2003 (approximately 2¾ years).

Attachment 1 provides our findings and recommendations resulting from our review. Management's response is included as Attachment 2. We will continue to monitor the findings until the district resolves them.

A review is substantially less in scope than an audit conducted in accordance with generally accepted auditing standards, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Copies of this letter and all attachments have been delivered to the board members of the Town & Country Drainage District No. 1. and other authorities as required by state law.

Sincerely,

Grover C. Austin, CPA
First Assistant Legislative Auditor

GCA:ESS:ss

Attachments

[TCDD103]

Attachment 1

Findings and Recommendations

TOWN & COUNTRY DRAINAGE DISTRICT NO. 1
Monroe, Louisiana

FINDINGS AND RECOMMENDATIONS

Failure to Comply With Code of Ethics

The board president may have violated the Louisiana Code of Governmental Ethics by participating in the levying of the 2001 special assessment. Louisiana Revised Statute (R.S.) 42:1112(A) prohibits a public servant from participating in a transaction involving the district in which he has a personal substantial economic interest. Also, R.S. 42:1112(B) prohibits a public servant from participating in a transaction in which any member of his immediate family has a substantial economic interest. A public servant's immediate family member is defined by state law to include his children, the spouses of his children, his brothers and their spouses, his sisters and their spouses, his parents, his spouse, and the parents of his spouse.

The board president and his immediate family own approximately 23 acres of land (29% of the district's total assessed property) within the district. Also, other relatives (not immediate family members) of the president own 17 acres of land (21%).

The board president participated in a transaction involving the district in which he and his immediate family have a substantial economic interest. The minutes of the board's "Emergency Meeting" held on March 29, 2001, reflect that the board president discussed the need for emergency repairs, presented a cost estimate totaling \$61,600, and said that the district needed a special assessment tax to pay for the repairs. A motion was made and approved for a special assessment tax in the amount of \$61,600.

Although this issue is historical, we suggest that the district formally discuss with the Louisiana Board of Ethics the various ethical issues relating to a board member and/or immediate family members having a personal substantial economic interest in the district. Based on these discussions, the district should develop a comprehensive written ethics policy to be followed in the future by board members and employees of the district.

Special Assessment

The board of commissioners did not fully comply with state laws relating to levying and collecting the district's 2001 special assessment. Specifically, the board did not:

- **Employ an engineer to prepare a drainage report**
- **Publish the notice of intention to construct such project (notice) three times, or specify, in the notice, the maximum sum that would be assessed per acre or square foot**

TOWN & COUNTRY DRAINAGE DISTRICT NO. 1

Monroe, Louisiana

Findings and Recommendations (Continued)

- **Introduce, publish, or adopt an ordinance levying the special assessment**
- **Notify each landowner in writing, prior to the date on which the board took final action, of the introduction of an ordinance to levy the special assessment**
- **Proceed against properties for the collection of past due assessments**

R.S. 38:1674.2 requires the district to employ an engineer to prepare a drainage report setting forth the area to be drained, the general plan of drainage, the total estimated cost of the project as well as the estimated annual cost of operating and maintaining the project and a proposed plan for financing such costs. Also, the board is required to adopt a resolution giving notice of its intention to construct such project, including notice of the board's intention to levy a special assessment not exceeding a specified sum per acre or square foot on each assessable lot or parcel of real estate in the district. In addition, the notice of intention to construct the project is required to be published once a week for three consecutive weeks. Upon the awarding of the contract, R.S. 38:1674.5 requires the introduction, at any board meeting, of an ordinance levying the special assessment on each assessable lot or parcel of real estate in the amount chargeable to it, for which no final action (adoption) is to be taken at the meeting at which it is introduced. Also, the district is required, at least one week before final adoption, to publish a notice of the time at which the board proposes to take final action. In addition, the district is required to mail a written notice of the assessment, including the amount of the assessment and the payment terms, to each landowner at least ten days prior to the date on which the board proposes to take final action. R.S. 38:1674.5 also requires the district, within thirty days from date of payment default, to proceed against the properties for the collection of the total amount due. In addition, a certified copy of the ordinance levying the special assessment shall be filed with the parish clerk of court, who records same in the mortgage records of the parish, which operates as a lien against the assessed real estate.

On March 29, 2001, the board of commissioners held an "Emergency Meeting" to discuss and approve a special assessment in the amount of \$61,600 for repairs to the district's existing protective levee and drainage system. The president informed us that he and an employee of one of his personal businesses compiled the estimated costs of the project and that he was not aware they were required to hire an engineer to prepare a drainage report.

Although the district published a "Notice of Construction and Financing Repairs and Improvements to Levees and Drainage System" in the local newspaper, it was published once for only two consecutive weeks (May 19, 2001 and May 28, 2001) rather than the required three consecutive weeks, and the notice did not specify the maximum sum that would be assessed per acre or square foot on each assessable lot or parcel of real estate, as required by law.

In a July 1, 2001, letter from the president, the property owners were notified of the introduction of an ordinance levying the special assessment; however, the minutes of the March 29, 2001, meeting do not reflect that such an ordinance was introduced, and the notice to each landowner was not mailed at least ten days prior to the date on which the board took final action (March 29, 2001), as required by law. Also, although state law prohibits an ordinance from being adopted

TOWN & COUNTRY DRAINAGE DISTRICT NO. 1

Monroe, Louisiana

Findings and Recommendations (Continued)

at the meeting at which it is introduced or prior to the next regular meeting occurring at least three weeks after it is introduced, the minutes (March 29, 2001) reflect that a discussion was held and a motion passed to approve a "special assessment tax" in the amount of \$61,600. In addition, the district did not publish the ordinance or publish a notice of the time at which the board proposed to take this final action.

There is little collection effort made by the district, and liens have not been recorded on properties for which the special assessment is delinquent, as required by law. The terms for payment of the special assessment allowed for four quarterly installments, the last of which was due May 1, 2002. As of the date of our visit (September 25, 2003), the district had mailed only one delinquent payment notice (June 14, 2002 - over one year ago) to property owners, and liens have not been recorded on the 34 properties with delinquent special assessment balances totaling \$7,055.

In the future, the district should strictly comply with all state laws relating to levying and collecting special assessments.

Annual Maintenance Tax

The board of commissioners did not fully comply with state laws relating to levying and collecting the district's annual maintenance tax. Specifically, the board did not:

- **Certify the annual maintenance tax to the sheriff and ex-officio tax collector of the parish (sheriff)**
- **Provide the district's drainage tax book to the sheriff for him to demand and collect the tax**
- **File a tax lien certificate with the parish clerk of court for property with delinquent maintenance taxes**

R.S. 38:1633 requires the district to certify its annual maintenance tax to the Ouachita Parish sheriff and ex-officio tax collector (sheriff). Also, R.S. 38:1635 provides that the sheriff shall receive the drainage tax book of the district and shall promptly and faithfully collect the annual maintenance tax. R.S. 38:1632 provides that, until paid, all drainage taxes from the date of filing a tax lien certificate in the office of the clerk of court, constitutes a tax lien upon all of the lands and other property against which the maintenance taxes are levied. In addition, the Louisiana Attorney General has opined (Opinion No. 91-655), in part, that property with delinquent drainage district taxes are subject to a lien, tax sale, and redemption as any other property with tax liens.

TOWN & COUNTRY DRAINAGE DISTRICT NO. 1

Monroe, Louisiana

Findings and Recommendations (Continued)

Contrary to state law, the district bills the annual maintenance tax (\$11,067) to the property owners and makes the tax collections. The maintenance tax is not certified to the Ouachita Parish sheriff nor is the district's drainage tax book provided to him to demand and collect the taxes, as required by law.

Also, the district does not file a tax lien certificate with the Ouachita Parish clerk of court on property with delinquent maintenance taxes, as required by law. In addition, there is little collection effort made by the district. For example, as of September 25, 2003, there were 38 properties owing maintenance taxes for the 2002 year totaling \$1,504 (14% of total tax levied), and 30 properties owing maintenance taxes for the 2001 year totaling \$1,176 (11% of total tax levied).

In the future, the district should strictly comply with all state laws relating to levying and collecting its annual maintenance tax. We suggest that the district contact the Ouachita Parish sheriff to coordinate the billing and collection of the annual maintenance tax or seek a change to the state law. In addition, the district should file a tax lien certificate with the parish clerk of court on all properties with delinquent maintenance taxes.

Failure to Comply With Local Government Budget Act

The district did not comply with the Louisiana Local Government Budget Act because the budget did not include a budget message and the budget was not adopted prior to the end of the previous fiscal year. R.S. 39:1309 requires all action necessary to adopt and otherwise finalize and implement the budget for a fiscal year to be taken in an open meeting and completed before the end of the prior fiscal year. Also, R.S. 39:1305 requires the budget document to include a budget message signed by the budget preparer which shall include a summary description of the proposed financial plan, policies, and objectives, assumptions, budgetary basis, and a discussion of the most important features.

The district's 2002 budget did not include a budget message and was adopted by the board on May 24, 2002 (five months subsequent to January 1, 2002, the beginning of the district's fiscal year).

In the future, the board should adopt its budget timely and the budget should include a budget message.

TOWN & COUNTRY DRAINAGE DISTRICT NO. 1

Monroe, Louisiana

Findings and Recommendations (Continued)

Written Minutes Should Be Published

The district does not publish proceedings of board meetings as required by Louisiana law. R.S. 43:171 requires that the proceedings of the board meetings be published in the official journal of the district. In addition, there was no documentation that the district provided written public notice of the March 29, 2001, "Emergency Meeting," as required by R.S. 42:7 (see finding, *Special Assessment*).

The district should (1) publish the proceedings of the board meetings in a timely manner in the district's official journal; and (2) maintain copies of the notices of the meetings and evidence that they were properly posted or published in the official journal, and keep the newspaper clippings of the minutes.

Inadequate Internal Control Over Receipts and Disbursements

Internal control over receipts and disbursements is inadequate because there is not a proper system of checks and balances in place. Good internal controls require that proper checks and balances be incorporated in the record keeping procedures.

The board president uses his personal secretary to perform bookkeeping duties of the district, as there are no employees of the district. She is the sole person involved in billing and collecting taxes, making bank deposits, paying vendor bills, and reconciling the district's bank account. The secretary is also a signatory on district checks (two signatures required).

Also, in our review of the district's financial records, we found that a majority of invoices paid for by the district were billed in the name of the board president or the name of one of his personal businesses. Although we were able to obtain verbal explanations of the business nature of district expenditures, this was not always documented on the invoices. The board president informed us that he and his personal businesses have accounts and lines of credit already established with vendors and that it was easier for him to use them rather than set up new accounts in the district's name.

We suggest that the president review the work his secretary does for the district and document his approval. Also, we suggest that the president receive the district's monthly bank statement unopened and review all transactions for propriety. In addition, the district should establish its own accounts with vendors and require that all payments be supported by invoices in the name of the district, including adequate documentation of the business purpose.

TOWN & COUNTRY DRAINAGE DISTRICT NO. 1
Monroe, Louisiana
Findings and Recommendations (Concluded)

Need to Obtain Quotes for Large Purchases

The district did not obtain quotes for certain large purchases. Requesting quotes from more than one vendor before purchasing large items ensures that goods and services are obtained at the most favorable prices.

The district did not obtain quotes for the purchase of one drainage pump propeller costing \$9,093 (October 2001) or for the repair of one of its drainage pumps at a cost of \$9,936 (January 2002).

The district should seek quotes/estimates before large items are purchased to ensure that the most favorable prices are obtained. We suggest that these quotes be documented as part of the approval process before the purchase is made.

Attachment 2

Management's Response

TOWN & COUNTRY DRAINAGE DISTRICT NO 1
4315 STERLINGTON RD.
MONROE, LA. 71203
Ph.318 323 3183 Fax 323 9253

OCT 21, 2003

RE. LA. STATE AUDITOR REPORT

Mr. Grover C. Austin, CPA
First Asst. Legislative Auditor

Dear Mr Austin,

I think everyone involved should know the background on Town & Country Drainage District #1. Our family purchased approximately 100 acres of land in 1965. This land was known to periodically flood. We employed a civil engineer, Mr. Asa Ray, who studied the problem and after much research came up with a plan for forming a drainage district and constructing levees and reservoirs and installing pumps. The construction work was completed in 1967 and paid for by our family. We developed a subdivision on the north side on approximately 60 acres leaving around 40 acres on the south side undeveloped. This acreage is still undeveloped.

The Town & Country Drainage District #1 has been holding annual meetings, levying taxes and conducting business at this address for approximately 35 years. Our family has also been operating other businesses at this address for these 35 years. During this time I have never received any monetary compensation. The payment for employees who did work for the drainage district bushhogging, operating the pumps, making repairs, etc. was mostly paid from our families other businesses. In the past, the Drainage District has paid our utility company for mowing the grass. This service is now contracted out to a outside mowing service. As our family pays about half of all the bills for the district, it is in our best interest to keep costs as low as possible.

I personally own 5% of 1/3 of the property which is about 13 usable acres or 3/4 of an acre. Other partners own the remainder of the property. My question is "How can any of the major partners look after their interests if they do not have a seat on the board?" Especially since they are paying for half of all the costs.?????.

I have served as president of the District for several years and have done my best to look out for the best interest of the District. I will discuss this with the Louisiana Board of Ethics and advise everyone of the findings.

Special Assessment

I am now aware that the Board needs to hire an engineer when a large capital improvement is needed. We will do that in the future as well as notify the public and landowners.

The district has not been able to afford to hire someone to do the billing and collecting of the taxes so I have let my employee, Mrs. DeMers handle this at no cost to the district. She has had to do this as her time allows. There are \$7,000 in special assessment taxes outstanding at the present, however no special assessment taxes have ever not been collected even though they are sometimes late. However, we do miss collecting a very few of the maintenance taxes. We will proceed to collect these past due accounts immediately. In the future, we will let the sheriff certify and collect the taxes.

We do file the tax lien certificates with the clerk of court but were late in doing that this year. We will do this on time in the future.

We will now schedule our annual meeting before the first of the year to comply with the budget act.

We will now comply with RS43:171 entirely.

With regard to control over receipts and disbursements, there are two signatures required on all disbursements. I personally review and approve all invoices and always have. In the future, I will personally check the bank statements before they are opened. We will try to open accounts in the District name but I am sure I will have to personally guarantee them as I always have.

With regard to the \$9,093 pump propeller in 2001, we could not get three bids as the manufacturer is the only place in the United States where the propeller is available. As to the repair of the pump in January 2002, time was most important as several hundred homes and apartments were in danger of flooding without the pumps being in working order. These pumps are what protects the district inside of the levees.

I KNOW IGNORANCE IS NO EXCUSE, BUT I WAS NOT AWARE OF ALL THESE RULES AND REGULATIONS , NOR WAS THE BOARD. THE BOARD AND I HAVE ALWAYS DONE WHAT IS BEST FOR THE DISTRICT.

Sincerely,

Charles J. Ledoux